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Refer Reply To:

CC:ITA:2 – GENIN-119666-02

Date:

August 7, 2002

Dear [REDACTED]

This responds to your letter dated January 28, 2002. We apologize for the time that it has taken for us to reply.

You have asked how to determine how much of your mother's nursing home care is deductible on her federal income tax.

Section 213(a) of the Internal Revenue Code allows as a deduction the expenses paid during the taxable year for medical care of the taxpayer, spouse, or dependent, if not compensated by insurance or otherwise, to the extent that such expenses exceed 7.5 percent of adjusted gross income.

Section 1.213-1(e)(1) of the Income Tax Regulations provides that the term "medical care" includes the diagnosis, cure, mitigation, treatment, or prevention of disease. Expenses paid for "medical care" include those paid for the purpose of affecting any structure or function of the body or for transportation primarily for and essential to medical care. Examples of payments for "medical care" include payments for hospital services, nursing services, medical, laboratory, surgical, dental, and other diagnostic and healing services, X-rays, medicine and drugs, artificial teeth or limbs, and ambulance hire. An expenditure which is merely beneficial to the general health of an individual is not an expenditure for medical care.

The definition of "medical care" also includes amounts paid for "qualified long-term care services." Section 7702B(c) defines "qualified long-term care services" as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

The amount of the cost of nursing home care that is deductible as a medical expense depends on the principal reason for a taxpayer's presence in the nursing home.

Section 1.213-1(e)(1)(v) of the Regulations provides that when the principal reason for the taxpayer's presence is the medical care that is available in the nursing home, the entire cost of medical care as well as food and lodging at the nursing home is treated as an expense for medical care for as long as the taxpayer requires continual

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medical care, such as the kinds of care described above that are included in section 7702B(c).

When the principal reason for the taxpayer's presence is not medical care that is available in the nursing home, only that part of the cost of care in the nursing home that is attributable to medical care is treated as an expense for medical care. In this case, the cost of meals and lodging are not treated as an expense for medical care.

When the principal reason for the taxpayer's presence is not the availability of medical care, it is necessary for the nursing home to provide a breakdown of what part of the fee is for medical care in order for that portion of the fee to be deductible as an expenditure for medical care.

We hope that this general information is helpful to you. If you have any additional questions, please contact [REDACTED]

Sincerely,

Acting Associate Chief Counsel
(Income Tax & Accounting)

By: _____
Clifford M. Harbourt
Senior Technician Reviewer, Branch 2